

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARY E. ALBERS,

Plaintiff,

vs.

CAROLYN W. COLVIN,  
Acting Commissioner of the  
Social Security Administration,

Defendant.

4:12CV3050

ORDER

This matter is before the court on the plaintiff's Application for Attorney Fees (Filing No. 25). The defendant filed an Objection (Filing No. 26) to the application. The plaintiff did not file a reply. The plaintiff seeks attorney fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). On December 21, 2012, the court reversed the final decision of the Commissioner, remanding the matter for further proceedings. **See** Filing Nos. 23-24. The plaintiff filed the instant motion on July 17, 2014. **See** Filing No. 25. Pursuant to the EAJA, a party "shall, within thirty days of final judgment in the action, submit to the court an application for fees . . . ." 28 U.S.C. § 2412(d)(1)(B). The thirty-day period begins after final judgment is entered and the appeals period has run. *Melkonyan v. Sullivan*, 501 U.S. 89, 96 (1991). The plaintiff's application is untimely by over one year under the statute and the plaintiff fails to suggest equitable tolling might be appropriate. Accordingly,

**IT IS ORDERED:**

1. The plaintiff's Application for Attorney Fees (Filing No. 25) is denied.
2. The defendant's Objection (Filing No. 26) is sustained.
3. Pursuant to Federal Rule of Civil Procedure 25(d), the Clerk of Court shall amend the docket sheet to reflect substitution for the defendant of Carolyn W. Colvin, Acting Commissioner of the Social Security Administration for Michael J. Astrue.

DATED this 18th day of August, 2014.

BY THE COURT:  
s/ Thomas D. Thalken  
United States Magistrate Judge